

**Liability Claims  
Administration Audit -  
2017**

for

**Authority for  
California Cities  
Excess Liability  
ACCEL**

**June 23, 2017**

The logo for Farley Consulting Services, LLC, featuring the letters 'FCS' in a bold, dark blue font. The letters are partially enclosed by a dark blue swoosh that curves around them from the bottom and right sides.

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June 23, 2017

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## **ACCEL**

### **Liability Claims Administration Audit – 2017**

This report summarizes the results of an audit of general liability claims for the Authority for California Cities Excess Liability (ACCEL). This report documents FCS's findings of all ACCEL members. This project includes the analysis of the following ACCEL members:

- Anaheim
- Bakersfield\*
- Burbank
- Modesto
- Monterey
- Mountain View
- Ontario
- Palo Alto
- Santa Barbara
- Santa Cruz
- Santa Monica
- Visalia
- ACCEL Administrator (Risk Management Services in Cotati)

\*Bakersfield claims were reviewed remotely via access to its administrator's (York) claims management information system.

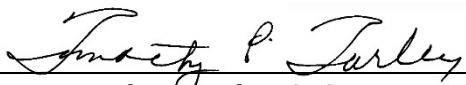
An individual audit of each ACCEL member was conducted at the member's facility (self-administered), remotely via access to the claims management information system of the member's third-party administrator (TPA) (Bakersfield), or on-site at the TPA (Ontario-Carl Warren in Riverside and the ACCEL Administrator, Risk Management Services (RMS) in Cotati).

The claims handling entity for each member was provided with audit results at the conclusion of its specific review. FCS also executed the "Claims Audit Exit Meeting Form" and provided it to each Board member at the conclusion of their respective audit. The Bakersfield exit form was scanned to Ms. Covey following the teleconferenced exit meeting. These exit forms have been forwarded to Mr. Boughey.

FCS appreciates the opportunity to complete this important project for ACCEL.

Respectfully submitted,

**FARLEY CONSULTING SERVICES**

by   
\_\_\_\_\_  
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## I. Executive Summary

### A. General Observations

The audit of liability claims for ACCEL finds that members and their respective administrators continue to be in general compliance with industry standards for public entity liability claims administration. Key to the success of the administration of ACCEL is the timely and compliant reporting to the ACCEL administrator of potentially catastrophic claims that will or could penetrate into ACCEL's coverage layer. Member performance continues to improve. Specific findings for this key category are indicated in Section II.C.7 of this report and documented in Exhibit 6 on page 16.

Consistently timely litigation status updates from defense counsel to the member or the administrator continue to improve for most members. This is especially true for the City of **Burbank**. Only one Burbank claim reviewed this year lacks timely status updates from defense counsel. Performance in this key area should be considered an area of concern. Exhibit 4 on page 12 provides each member's findings and compares performance observed this year with observations presented in last year's (2016) audit report.

Where possible, this report provides a comparison of performance in key claims administration categories with observations presented in the 2016 audit report.

Specific findings and observations are:

1. Many of the individuals assigned to the claims administration function also have other risk management related duties. Nearly all of the members delegate primary claims handling duties to defense attorneys/city attorneys once a claim becomes litigated. FCS recommends a maximum caseload of 180 claims for claims handling technicians on municipal liability exposures. The caseload of Joe Klecansky, the Carl Warren adjustor assigned to City of **Ontario**, has been reduced but is still excessive. Terrance Massey with the City of **Modesto** also has an excessive caseload. Michael Spenelli with **Santa Monica** has a caseload of 205, but a significant number of these are simply monitored following rejection. A list of adjustor caseloads appears in Exhibit 1 – Caseload Analysis on page 6.
  - **Burbank** – Alvaro Valdez joined the City in November 2016. He will assist Arlene Gallardo with general claims handling duties. This will allow Ms. Gallardo to establish a consistent diary compliance.
  - **Monterey** – The City's former risk manager, Sherrell Freeman, is still temporarily assisting the City with its claims matters. Mr. Michael Anderson assumed the risk manager position on 9/19/16.
  - **Santa Cruz** – Ms. Olga Jackson has been added to the risk management staff.
  - **ACCEL Excess Administration** – ACCEL excess and litigation duties were assumed by Risk Management Services (RMS) in Cotati beginning June 1, 2016.
2. Case reserves are generally accurate for all member entities. FCS concludes that members and their administrators continue to improve performance in this key area. Exhibit 2 on page 8 lists each member's reserve accuracy findings and provides a

comparison to the findings presented in the 2016 audit report. Seven members had only one claim requiring adjustment. **Burbank** is not consistently closing out case reserves after a claim has been resolved.

3. Minor deviations from accepted claims handling standards for investigation are evident for only a few of the cities. There is continued improvement in this key area of claims administration. No particular member exhibits deficiencies that could impact ACCEL's awareness of exposure on the case.

Exhibit 3 – Investigation Deficiency Analysis on page 11 lists the claims exhibiting a specific investigation deficiency for each ACCEL member and provides a comparison of findings presented in 2016.

4. ACCEL members are generally adhering to industry standards for diary. **Burbank** claims exhibit notable deficiencies.

The analysis of diary includes those instances where the claims handling technician failed to respond to claim closure potential. FCS deems the failure to adhere to diary as a primary catalyst of the failure to close claims timely. Exhibit 5 – Diary Performance Analysis on page 14 lists the claims exhibiting ineffective diary activity for each ACCEL member.

5. The review concludes that all members are considering important valuation criteria when resolving claims. This includes obtaining and documenting executed releases and dismissals (litigated claims) after claim resolution. This has been a key finding in all past audits.
6. All claims handling entities are generally maintaining organized and clearly documented claim files and/or information system data. City of **Bakersfield** claims were reviewed remotely via access to the claims management information system of York Risk Services Group (York), its administrator. That system is efficiently capturing and documenting City claims activity.

Exhibit 7 on page 18 discusses each City's performance in this key area of evaluation.

7. The administrators are consistently complying with ACCEL excess reporting guidelines and communicating the perceived significant exposure to RMS. Claims exhibiting late or absent excess reporting to RMS or claims exhibiting a lack of correspondence from defense counsel to RMS are listed and discussed in Exhibit 6 on page 16. All qualifying claims have been reported timely, but defense counsel is not copying RMS on correspondence for a few of the members.

The review of excess claims at RMS confirms that the July 2016 transition from the prior administrator was efficient. RMS is effectively monitoring ACCEL reportable claims and documenting its files thoroughly.

## **B. Areas of Concern**

With the multiple claims handling arrangements involved in the ACCEL program, FCS believes it is imperative that general claims handling guidelines are consistently followed by all claims handling entities. FCS concludes that claims handling is consistent among all claims handling entities and improvement is evident in all areas, including the timely updating of case status from defense attorneys to the claims handler. Still, the key areas listed below merit discussion and should be a focus of improvement:

- **Staffing** – Exhibit 1 on page 6 lists staff assigned to ACCEL member claims. Several members have undergone staffing changes since last year’s audit. Two member adjustors are maintaining excessive caseloads. This project can identify no fiscal impact resulting from these changes.
- **Litigation Management** – This has been a consistent area of concern, but there has been improvement over the past few audits. **Burbank’s** performance in this area has improved significantly.
- **Case Reserve Accuracy** – The City of **Burbank** is not consistently eliminating reserves when the claim is resolved. Seven claims exhibiting this deficiency are discussed in Exhibit 1. Also, the City of **Ontario** is maintaining unusually high legal expense reserves. These reserves are based on submitted litigation budgets. Exhibit 1 provides an example.
- **Excess Reporting to ACCEL (RMS)** – The audit identified no instances of late or absent reporting of qualifying claims to the excess administrator, but claims for **Anaheim, Modesto, Mountain View, and Santa Barbara** exhibit some failure by defense counsel to copy RMS on email correspondence. Due to the importance of this category, it is listed as an area of inconsistency. Only complete compliance by all members should be considered acceptable for this category. Exhibit 6 (page 16) lists the claims deemed deficient.

These and other results of this study are discussed in more detail in the remainder of this report.

## II. Audit Results

### A. Background

Member audits were conducted from March 27, 2017 (**Anaheim**) to May 4, 2017 (**Mountain View**). Review of excess and watch list claims at RMS was conducted May 9-10, 2017.

The primary objectives for this audit are:

- To assure all ACCEL members that claims are effectively adjusted according to industry standards.
- To identify inconsistencies in fiscal and technical procedures that could impact the efficiency of the ACCEL program, particularly the timely and accurate reporting of high exposure claims that may penetrate into ACCEL’s layer of coverage.
- To assess similarities and differences in reserving practices among the members.
- To ensure that all ACCEL claims handling requirements are complied with.
- To reconcile loss data maintained by Alliant Insurance Services (Alliant) utilized for ACCEL’s retrospective rating calculation with loss data maintained by each member. The results of this reconciliation were provided to Alliant in early May.

The table below lists the ACCEL members audited, the number of claims reviewed for each member, and the claims handling entity where the claims were reviewed.

#### ACCEL Audit Composition and Facility – 2017

ACCEL Member	Number of Claims Reviewed	Claims Handling Entity (Audit Site)
Anaheim	30 open; 5 closed claims	City self-administered
Bakersfield	19 open claims (total number of cases at or above \$50,000 incurred); 5 closed claims	York Insurance Services-Bakersfield (audit was completed remotely)
Burbank	31 open claims; all in excess of \$50,000 incurred costs; 5 closed claims	City self-administered
Modesto	17 open claims (all in excess of \$50,000 incurred costs); 5 closed claims	City self-administered
Monterey	25 open claims (entire City inventory); 5 closed claims	City self-administered
Mountain View	13 open claims, including all 4 with incurred costs in excess of \$50,000; 5 closed claims	City self-administered
Ontario	27 open claims with incurred costs of \$50,000 or more; 5 closed claims	Carl Warren & Co.-Riverside
Palo Alto	21 open claims, including all 5 with incurred costs in excess of \$50,000; 5 closed claims	City self-administered
Santa Barbara	30 open claims, including all 4 claims with incurred costs in excess of \$50,000	City self-administered
Santa Cruz	16 open claims, including all 4 claims with incurred costs in excess of \$50,000; 5 closed claims	City self-administered
Santa Monica	32 open claims, including all 26 with incurred costs in excess of \$50,000; 5 closed claims	City self-administered
Visalia	15 open claims, including all 6 with incurred costs in excess of \$50,000; 3 closed claims	City self-administered
ACCEL Excess and Watch List	40 open, including all 37 Watch List claims	RMS-Cotati

All members and/or their claims handling entity either provided a list of open liability claims from which a sample could be selected or made all open claims available while on site. All claims with incurred costs of \$50,000 or more were reviewed for each member.

FCS also reviewed the loss description of **all** open claims regardless of the amount of incurred costs and augmented each member's audit sample by selecting claims that, by description, could develop into reportable claims. Fatalities and civil rights claims were primary candidates for inclusion in the audit sample. Claims clearly representing no potential exposure to ACCEL (e.g., pothole/tire damage claims or tree limb property damage claims) were not reviewed.

ACCEL directed FCS to evaluate the claims handling performance of each member and the excess administrator to verify compliance with generally accepted industry standards for public entity liability claims handling. Recommendations for improvements are incorporated into the report.

## **B. Staffing/Caseloads**

The recommended maximum caseload for an individual handling liability claims, including litigated cases similar to those incurred by ACCEL members, is 180. This recommended caseload maximum requires the claims handling entity to assign member claims only to technicians with at least five years of experience adjusting public entity claims. However, this recommend maximum also assumes the technician will be actively involved in the claims administration process until case resolution, even if the claim is litigated. That is not the case with most of the ACCEL claims handlers. Adjustors are routinely relieved of all claims handling responsibilities once the claim becomes litigated. Accordingly, it was either necessary to discuss claim status with defense counsel/City Attorneys or discuss the status with the claims handler at many of the members.

- **City of Burbank** – Mr. Alvaro Valdez was added to the City claims administration staff in November 2016. He will assist Arlene Gallardo.
- **City of Monterey** – Michael Anderson assumed the risk manager position on 9/19/16. Sherrell Freeman will continue to assist with claims administration duties on a part-time basis during Mr. Anderson's transition.
- **City of Santa Cruz** – Ms. Olga Jackson joined the City's risk management staff recently.
- **ACCEL Excess (RMS-Cotati)** – RMS assumed the monitoring and administration of ACCEL excess claims effective June 1, 2016. The ACCEL reportable claims are administered by Ken Maiolini and Sandy Manzoni.

Many of the individuals assigned to the claims administration function also have other risk management related duties.

The caseloads for **Ontario** (Carl Warren – Joe Klecansky) and **Modesto** (Terrance Massey) are excessive. A list of adjustor caseloads appears in Exhibit 1 on page 6.

The caseloads listed for Carl Warren-Ontario and York-Bakersfield in Exhibit 1 are the individuals' total caseloads, including assignments from other non-ACCEL clients.

**Exhibit 1 – Caseload Analysis**

Claims Handling Entity	ACCEL Member	Primary Claims Handler	Caseloads (as of the member’s specific audit date)
York Insurance Services – Bakersfield (claims were reviewed remotely via access to the York Claims Connect system)	Bakersfield	Laura Harmon	166
Risk Management Services – Cotati	ACCEL Excess/ Watch List Claims	Ken Maiolini Sandy Manzoni	180 55
Carl Warren & Co. – Riverside	Ontario	Joe Klecansky	185 (99 are for City of Ontario)
Self-Administered	Anaheim	Roger Lambert Tracey Matthews	131 166
	Burbank	Arlene Gallardo Alvaro Valdez	147 91
	Modesto	Terrance Massey	193
	Monterey	Sherrell Freeman (temporary)	25
	Mountain View	Lynn Dobson, Senior Assistant City Attorney Nicole Wright	36 open claims split roughly evenly; Ms. Dobson assumes handling of claims when litigated
		Angela Apitz	Case reserve adequacy review and coordinator with City Attorney office.
	Palo Alto	Janet Billups with Stacey Lavelle supervision; bodily injury claims handled by George Hills-San Jose	66
	Santa Barbara	Marisa Kahn	100
	Santa Cruz	Patty Haymond Tanya Malko Olga Jackson	61; Ms. Malko assists Ms. Haymond with claim intake and filing activity; Olga Jackson also assists.
	Santa Monica	Michael Mack Carol Tang Michael Spennelli	91 42 (including 38 subro) 205, including “monitor only” claims
	Visalia	Charlotte Dunn	48
Diana Lopez		Ms. Lopez is responsible for claim intake activity and conducts necessary communication with departments.	

## C. Claims Handling Components

Specific claims handling activities are analyzed for this section of the report. The objective for this section is to provide ACCEL with general observations of the particular component for the entire program. Individual ACCEL members' findings are detailed in exhibits contained within this section of the report.

### 1. Reserves

All liability case reserves should be based primarily on:

- Anticipated extent of damages/injuries sustained.
- Degree of liability attributable to the ACCEL member.
- Existence of additional tortfeasors (responsible parties that may share in the application of liability).
- Application of statutory defenses or immunities available to ACCEL and its members.
- History of settlement trends of the involved venue.

All ACCEL claims administration entities are utilizing these criteria when establishing and amending case reserves. Exhibit 2 on page 8 lists each member, the member's claims requiring reserve adjustment, and FCS's analysis as to why adjustment is needed.

The exhibit also lists the number of claims requiring reserve adjustment identified during last year's audit for comparison.

**Ontario's** legal expense reserves are unusually high. Many of the claims involved are employment related. Such claims routinely generate high legal costs, but FCS encourages the City and Carl Warren to re-evaluate these reserves at the next diary date.

**Burbank** is not eliminating remaining reserves after claim resolution.

### 2. Investigation

Proper investigation of ACCEL member liability claims includes:

- Making prompt contact with the injured claimant.
- Verifying the extent of the ACCEL member's liability.
- Accounting for injury history to determine any pre-existing condition or concurrent causation.
- Canvassing for possible witnesses to the incident.
- Obtaining recorded or written statements regarding the incident from the claimant and witnesses, when possible.
- Follow-up contact with medical providers to gain a clear understanding of the severity of the injury.

**Exhibit 2 – Claims Requiring Reserve Adjustment in 2017**

ACCEL Member (Administrator)	Claim Number	Reserve Adjustment Analysis		Deviation from Auditor's Recommended Reserve (net reserve change required)	Claims Requiring Reserve Adjustment in 2016
		Current Reserve	Recommended Reserve (Rationale)		
Anaheim (self-administered)	12974-001	\$0 (legal expense)	\$5,000 (legal expense)	\$5,000 under-reserved	0
Bakersfield (York)	No adjustments necessary				0
Burbank (self-administered)	The following claims still have unnecessary outstanding reserves. These reserves should be eliminated: <ul style="list-style-type: none"> <li>• 15072 \$200,000</li> <li>• 14034 \$1,450,000</li> <li>• 14034 \$132,500</li> <li>• 15061 \$100,000</li> <li>• 16055 \$60,000</li> <li>• 15023 \$75,000</li> <li>• 14091 \$50,000</li> </ul>				0
Modesto (self-administered)	No adjustments necessary				0
Monterey (self-administered)	16012	\$0 (loss)	\$50,000 (loss)	This officer-involved shooting requires a precautionary reserve.	0
Mountain View (self-administered)	No adjustments necessary				1
Ontario (Carl Warren-Riverside)	1932428	The claimant fell off a skateboard and cut his lip. The claim is litigated, but the current legal reserve of \$208,640 is based on what appears to be a "worst case scenario" budget submitted by counsel. This reserve can be reduced to \$100,000.			0
Palo Alto (self-administered)	L16-0007	\$500 (loss)	\$10,000 (loss)	\$9,500 under reserved	1
	This is a claim alleging a violation of civil rights. Ms. Lavelle instructed George Hills to make this reserve adjustment just prior to this review.				
Santa Barbara (self-administered)	17-016	\$25,000 (loss)	\$0 (loss)	\$25,000 over reserved	1
	This claim was settled in early March. There is no need for an outstanding loss reserve.				
Santa Cruz (self-administered)	16-0578	\$0 (loss)	\$7,500 (loss)	\$7,500 under-reserved	0
	The City may have some liability for this motor vehicle accident. The claimant is represented.				
	16-0513	\$0 (loss)	\$50,000 (loss)	\$50,000 under-reserved	
	This involves a claim presented by a cyclist. Litigation is active and some precautionary loss reserve is warranted.				

ACCEL Member (Administrator)	Claim Number	Reserve Adjustment Analysis		Deviation from Auditor's Recommended Reserve (net reserve change required)	Claims Requiring Reserve Adjustment in 2016
		Current Reserve	Recommended Reserve (Rationale)		
Santa Monica (self-administered)	16-1019	\$100,000 (loss)	\$250,000 (loss)	\$150,000 under-reserved	0
	A City bus struck and killed the claimant's daughter. The case is still being assessed by the ACCEL administrator, but the severity of the claim warrants this increase.				
Visalia (self-administered)	17-010	\$10,000 (loss)	\$250,000 (loss)	\$240,000 under-reserved	0
	The claimant was killed while being transported by ambulance. It is likely the ambulance company will accept a tender, but it is also possible the City will remain as a named defendant.				
ACCEL excess/watch list (RMS)	No adjustments necessary				0 (score pertains to prior vendor)

- Obtaining police accident reports when the damage or injury is the result of a traffic accident.
- Obtaining photographs of accident scenes, when applicable. This requires the documentation and description of vital accident scene photographs to the file. Photographs stored on a disc are not sufficient.
- Aggressive pursuit of additional responsible parties to offset the member's contribution to damage/injury awards.
- Obtaining signed releases, including court approved releases when minors are involved, prior to final claim resolution.
- Invoking risk transfer devices available to the members (e.g., hold harmless, indemnification, or additional insured agreements).

ACCEL member claim files exhibit thorough investigation activity. Still, minor investigation deficiencies unique to specific claims are evident.

Exhibit 3 lists the claims exhibiting a specific investigation deficiency for each ACCEL member. Numbers appearing in parentheses are the number of deficiencies identified in the 2016 audit. Blank categories indicate there were no findings in either 2017 or 2016.

### 3. Litigation Management

The control of litigation activity and its associated expense is vital to the fiscal performance of any public entity.

A primary performance measure for litigation management is the timeliness and clarity of information provided by handling counsel in status reports to the claims handler. Exhibit 4 on page 12 lists the claims exhibiting late litigation status reports or no status reports at all from defense counsel. The number in parentheses is the number of deficiencies identified in the 2016 audit.

Industry standards require some status update from counsel at least every 90 days on actively litigated claims. These litigation status updates need not be elaborate or inclusive of discovery documentation such as deposition transcripts or interrogatory responses. A simple written status (e.g., email) is sufficient.

**Burbank** claims have improved significantly in this area since last year's audit.

**Modesto's** City Attorney is withholding status updates on claim 01-17-0024 due to "privacy" considerations. This is not acceptable. This is a claim alleging discrimination. Providing the claims handler with the status of the litigation does not seem to violate any privacy issues. If this actually is a City policy, the policy should be addressed because it significantly impedes the ability of the claims handler to properly set case reserves and identify excess reportable claims.

**Exhibit 3 - Investigation Deficiency Analysis**

ACCEL Member	Number of Claims Exhibiting Deficiency (numbers in parentheses are 2016 findings; dashes indicate no deficiencies in 2016 or 2017)						
	Failure to Index	Failure to Obtain Statement	Failure to Obtain Police Report	Failure to Document Photographic Evidence	Failure to Obtain Release	Failure to Invoke Risk Transfer	Failure to Obtain Estimates
Anaheim	-	-	1 (0)	-	-	-	-
Bakersfield	-	-	-	-	-	-	-
Burbank	-	-	-	-	-	-	-
Modesto	-	-	-	1 (1)	-	-	-
Monterey	-	-	-	-	-	-	-
Mountain View	-	-	-	-	-	0 (1)	-
Ontario	-	-	-	1 (0)	-	-	-
Palo Alto	-	-	-	-	-	-	-
Santa Barbara	-	-	-	-	-	-	-
Santa Cruz	-	-	-	2 (0)	-	-	-
Santa Monica	-	-	-	1 (0)	-	-	-
Visalia	-	-	1 (0)	1 (0)	-	-	-
Excess/watch list	-	-	-	-	-	-	-

**Anaheim**

- Claim 12973: The securing of a police report and coroner’s report is taking an inordinate amount of time. This should not be considered a claims handling unit deficiency, but the delay is excessive.

**Bakersfield**

- No investigation deficiencies identified.

**Burbank**

- No investigation deficiencies identified.

**Modesto**

- Claim 01-15-0108: This claim Involves a motor vehicle accident. The claimant alleges a dangerous condition. There are no photographs of the accident scene in the claim file.

**Monterey**

- No investigation deficiencies identified.

**Mountain View**

- No investigation deficiencies identified.

**Ontario**

- Claim 1949744: This involves a motor vehicle accident. The claimant is making an exaggerated claim. Photographs of the claimant’s vehicle are not documented to the claim file.

**Palo Alto**

- No investigation deficiencies identified.

**Santa Barbara**

- No investigation deficiencies identified.

**Santa Cruz**

- Photographs of the accident scene are necessary for claims 16-0527 and 16-0513.

**Santa Monica**

- Claim 15-0763: The claimant tripped and fell. The exact location of the fall had not been determined as of the day of this audit, but City staff went to the general area and took no photographs. Photographs of the scene inspection should have been taken and documented.

**Visalia**

- Claim 16-036: This involves a motor vehicle accident. There are no photographs of the accident scene.

**Exhibit 4 - Litigation Status Report Analysis**

ACCEL Member	Claims Lacking Status Reports or Exhibiting Late Status Reports from Defense Counsel		2016
	2017		
Anaheim	No deficiencies identified		0
Bakersfield	No deficiencies identified		0
Burbank	1	5% of the litigated claims reviewed	14
Modesto	2	12% of the litigated claims reviewed	1
Monterey	No deficiencies identified		0
Mountain View	No deficiencies identified		0
Ontario	1	4% of the litigated claims reviewed	0
Palo Alto	No deficiencies identified		1
Santa Barbara	1	7% of the litigated claims reviewed.	0
Santa Cruz	No deficiencies identified		0
Santa Monica	2	6% of the litigated claims reviewed.	0
Visalia	No deficiencies identified		0
Watch list/excess	No deficiencies identified		1

#### 4. Diary/Claim Closure

Industry standards require documented adjusting activity every 45 days on open active cases. The failure to adhere to an aggressive, timely diary routinely results in the failure to respond to settlement/resolution opportunities and the failure to close claims timely.

Certain claims may maintain a longer diary. For example, claims that have been rejected and for which the only remaining activity is the monitoring for potential receipt of legal action may maintain a 6-month diary. FCS considered these criteria when evaluating diary performance.

ACCEL members are generally adhering to industry standards for diary. All five deficient **Burbank** claims are a simple failure to close the claim after resolution. With the addition of Mr. Valdez to the claims administration staff, the City hopes to remedy this deficiency.

The analysis of diary includes those instances where the claims handling entity failed to respond to claim closure potential. FCS deems the failure to adhere to diary as a primary catalyst of the failure to close claims timely. Exhibit 5 lists the claims exhibiting ineffective diary activity for each ACCEL member for both this year's audit and the 2016 audit.

#### 5. Payments/Settlement

FCS concludes that ACCEL members and their claims handling entities are generally considering the following important criteria when resolving claims:

- The extent of liability attributable to the ACCEL member.
- The existence of additional tortfeasors.
- The existence of risk transfer devices (e.g., indemnification language or contractual hold harmless agreements) that allow the member to tender the responsibility to the responsible party.

The evaluation also seeks to confirm that claims handling entities are securing and documenting release/dismissal correspondence in instances when a claim settlement is reached.

This area of claims handling exhibits full compliance with industry standards. This has been a conclusion in all past audits.

**Exhibit 5 – Diary Performance Analysis**

ACCEL Member	Claims Exhibiting Diary Deficiency	
	2017	2016
Anaheim	0	0
Bakersfield	0	0
Burbank	5	5
Modesto	0	1
Monterey	0	1
Mountain View	1	0
Ontario	0	0
Palo Alto	0	0
Santa Barbara	0	0
Santa Cruz	0	1
Santa Monica	0	0
Visalia	0	0
Watch list/excess	0	2

Anaheim

- No deficiencies identified

Bakersfield

- No deficiencies identified

Burbank

- 15072
- 14034
- 15006
- 15061
- 15023

Modesto

- No deficiencies identified

Monterey

- No deficiencies identified

Mountain View

- 15-706

Ontario

- No deficiencies identified

Palo Alto

- No deficiencies identified

Santa Barbara

- No deficiencies identified

Santa Cruz

- No deficiencies identified

Santa Monica

- No deficiencies identified

Visalia

- No deficiencies identified

Watch List/excess

- No deficiencies identified

## 6. Claim Data Organization and Documentation Clarity

FCS encourages consistent and chronologically accurate documentation of claim activity material. This ensures that the claim will be clearly interpreted upon review by a party other than the handling adjuster. It also ensures that important documents such as settlement demands, release/dismissal documents, and important investigation items are not misplaced.

All claims handling entities are maintaining clearly documented claim data. City of **Bakersfield** claims were reviewed via on-line access to its administrator's information system. Several other members utilize George Hills Company to maintain data and provide claim loss run reporting capabilities.

Minor documentation deficiencies such as absent or disorganized claim activity data exist in a small percentage of the claims reviewed.

**Palo Alto** loss data still misidentifies the loss reserve category. The loss reserve for multiple bodily injury or civil rights-related claims is contained under the property damage category. This is inaccurate. **Santa Monica's** loss run shows two claims with a similar mistake, but this does not seem to be an information system error.

These findings are discussed in Exhibit 7 on page 18.

## 7. Excess Reporting

This is a vital element of this study. The very nature of this project and the composition of ACCEL as an excess pool make the timely and consistent reporting of serious claims to the excess provider a main indicator of efficiency.

When selecting audit samples for each member, FCS focused primarily on higher valued claims (e.g. cases with incurred costs of \$50,000 or more), since these would logically have the greatest potential for excess exposure. All claims reaching this threshold were reviewed for each member.

The audits confirm that ACCEL members are consistently complying with ACCEL excess reporting guidelines and reporting qualifying claims to ACCEL and the Watch List administrator (RMS), but defense counsel for several members are not copying RMS on email correspondence. FCS concludes that this violates the Administrative Procedures document, specifically the requirement that:

*Legal Counsel are required to report to the ACCEL claims management firm...any activity that would change the value of the claim.*

The review of Watch List and other excess claims at RMS confirms that RMS is effectively monitoring these claims. Exhibit 6 displays claims that were either not reported to the excess administrator timely – even though it appears that claim characteristics qualify for excess reporting – or lack timely follow-up correspondence from the member or defense counsel. These findings were presented to the particular member or the member and its administrator after that member's audit.

## Recommendation

When reviewing excess reportable claims at RMS, it was noticed that few members provide a calculation of the deterioration of the members' retention in periodic status updates to RMS. ACCEL should consider making the documentation of this calculation mandatory on status reports.

**Exhibit 6 - ACCEL Excess Reporting Analysis**

<b>Member</b>	<b>Claim Number</b>	<b>Discussion</b>
Anaheim	12640	This officer-involved shooting has been reported to the prior excess administrator, but defense counsel is not consistently providing RMS with copies of email correspondence.
Bakersfield	All excess reportable claims reported timely	
Burbank	All excess reportable claims reported timely	
Modesto	14-0116	This is a wrongful death claim alleging City police abandoned a suicidal individual. The claim was reported to the excess administrator timely, but defense counsel is not copying RMS on email correspondence.
Monterey	All excess reportable claims reported timely	
Mountain View	GHC 0011587	This claim was reported timely, but defense counsel is not copying RMS on legal correspondence.
Ontario	All excess reportable claims reported timely	
Palo Alto	All excess reportable claims reported timely	
Santa Barbara	17-078	The claimant alleges that failure to provide care resulted in death. The claim had not been reported to RMS as of the day of this review.
Santa Cruz	All excess reportable claims reported timely	
Santa Monica	All excess reportable claims reported timely	
Visalia	All excess reportable claims reported timely	
ACCEL Excess	No excess recording issues. All watch list claims designated properly.	

## **8. Risk Management Information System (RMIS)**

The objective here is to confirm that loss data captured by the member entities are accurate, allowing ACCEL to assess the potential excess exposure.

FCS was provided a list of all open claims as well as a specific list of open claims with incurred costs of \$25,000 or more for all members. A separate loss run of all open and closed claims with incurred costs of \$25,000 or more that occurred in ACCEL membership years was also provided and was used to reconcile the Loss Stratification Report used for ACCEL's retrospective rating calculation.

Many of the cities utilize independent claims administration vendors to document loss data and generate periodic loss run documents.

Loss information generated generally reconciles with financial information documented in the claim management system or claim file. Exhibit 7 lists the observed deficiencies.

**Exhibit 7 – ACCEL Loss Data Reconciliation Analysis**

Member	Claim Number	Discussion
Anaheim	12294	The loss run provided lists the exact same \$value under “reserves” and “paid to date.” This is inaccurate.
	12051	The \$20,000 loss reserve is mistakenly shown under “X/SIR.”
Bakersfield	CBAD 18389A	Claim activity notes indicate the City’s full retention was exhausted yet the financial data show a total incurred of only \$250,000. The City’s retention is \$1 million.
Burbank	No RMIS/documentation deficiencies identified	
Modesto	17-0259	This claim does not appear on the loss run provided.
Monterey	No RMIS/documentation deficiencies identified	
Mountain View	MV 080163	This claim does not appear on the loss run provided. The City indicated the claim was closed after resolution even though an executed dismissal has not been received. This claim should not have been closed until all activity is complete.
Ontario	No RMIS/documentation deficiencies identified	
Palo Alto	Nine of the claims reviewed mistakenly list the loss reserve under the property damage category.	
Santa Barbara	No RMIS/documentation deficiencies identified	
Santa Cruz	No RMIS/documentation deficiencies identified	
Santa Monica	Loss reserves for claims 15-0836 and 16-0435 are listed under the “property damage” category. This is inaccurate.	
Visalia	No RMIS/documentation deficiencies identified	
Watch List/other excess	No RMIS/documentation deficiencies identified	